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International Convention
on the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Forty-ninth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the Elimination of Racial Discrimination

Bolivia

1. The Committee examined the eighth, ninth, tenth, eleventh, twelfth and thirteenth periodic reports of Bolivia, which were submitted in a single document (CERD/C/281/Add.1), at its 1157th and 1160th meetings held on 5 and 7 August 1996 (see CERD/C/SR.1157 and 1160). In the light of the examination of the report and the observations made by the members of the Committee, the Committee, at its 1176th meeting, on 19 August 1996, adopted the following concluding observations. 1/

A. Introduction

2. While the Committee regrets the long period, since 1983, during which no reports were submitted by the State party, it welcomes the submission of the combined eighth, ninth, tenth, eleventh, twelfth and thirteenth periodic reports. The Committee expresses appreciation for the frank manner in which the report addresses the actual situation in Bolivia. It also expresses its appreciation for the additional information provided by members of the State party's delegation and for their willingness to engage in a constructive dialogue with the Committee. The information contained in the report and in

1/ The Committee takes note of the document submitted by the Government of Bolivia on 21 August 1996 concerning legislative proposals made by the Ministry of Justice for the elimination of all forms of racial discrimination. This document can be considered by the Committee when Bolivia submits its next periodic report.

the oral answers to its questions allowed the Committee to obtain a clearer view of the overall human rights situation in the State party with respect to racial discrimination.

3. The Committee notes that the State party has not made the declaration provided for by article 14 of the Convention; some members of the Committee requested the State party to consider the possibility of making such a declaration.

## B. Factors and difficulties affecting the implementation of the Convention

4. Note is taken, with concern, of the conditions of extreme poverty principally affecting members of the indigenous population. Poverty is evident in the lack of access to some basic services, such as provision of clean water, medical care, education and electricity.

5. The high rate of illiteracy and the fact that the national language, Spanish, is spoken by only 44 per cent of the population, and the large number of languages and dialects spoken in the country are noted with concern, as they make communication difficult between the various ethnic groups and, in many cases, place indigenous persons at a disadvantage in the defence of their human rights.

6. Concern is also expressed about the complex problem of drug trafficking and, in the rural areas, drug production, principally affecting members of the indigenous population, which the Government, faced with economic problems and violations of the law, as well as external pressures, is struggling to eradicate.

## C. Positive aspects

7. The progress made in stabilizing the national economy is welcomed, as are the Government's efforts to reduce the great disparities between the level of development of the capital and other urban areas relative to the remote rural areas of Bolivia.

8. In addition, the Law on Popular Participation of 1994 is welcomed for its recognition of indigenous communities as juridical persons and granting to such communities the power to engage in certain activities independently of the central authorities. These include the capacity to contract public projects and to receive international assistance for local development.

9. The abolition of the practice of debt imprisonment is welcomed. This practice by definition has affected the poorer sectors of society and consequently has had important racial implications.

10. The new measures to provide maternity care and medical care for infants until the age of five years, under Supreme Decree 24,303, are welcomed and considered to be in conformity with article 5 (e) of the Convention.

11. The protection of the indigenous population should be improved by the planned adoption of legal provisions for the establishment of various institutions with specific areas of responsibility in the protection of human rights, including the National Organ for Minors, Women and the Family and the

Sub-Secretariat on Human Rights in the Ministry of Justice. The post of a national human rights ombudsman envisioned in the constitutional reforms of 1994 is also welcomed.

## D. Principal subjects of concern

12. Deep concern is expressed over the lack of legislative provisions classifying as an offence punishable by law the dissemination of ideas based on racial superiority or hatred, acts of violence or incitement to violence against any race or group of persons of another colour or ethnic origin and the provision of assistance to racist activities, as required under article 4. In this connection, attention is drawn to the fact that failure to take such action impairs implementation of article 6 on the right to effective protection and remedy.

13. Attention is drawn to article 5 (c), in accordance with which all persons have the right to have equal access to the public service. In this regard, regret is expressed that the law on the public service, adopted in 1992, does not expressly prohibit racial discrimination in the selection of public servants.

14. Note is taken of the disparities in the access to economic, social and cultural benefits by different ethnic groups. While the difficulties in providing such benefits to regions far removed from the capital are appreciated, the disproportionate effects that may hinder the relative development of different communities are of deep concern, as they can perpetuate racial discrimination towards disadvantaged groups.

15. With respect to article 7, it is considered that insufficient information was made available concerning efforts in teaching and education to combat prejudices which lead to racial discrimination and to promote understanding, tolerance and friendship, as required under this article.

16. It is noted with regret that quantitative information regarding the ethnic composition of the population, the geographic areas where minority communities are concentrated, the level of their standard of living and other educational and social indices was not provided in the present report. Such information is essential for the Government itself to detect possible patterns of discrimination and for the Committee to monitor effectively the implementation of the Convention.

## E. Suggestions and recommendations

17. The Committee urges the Government to consider its obligations to make all forms of racial discrimination, as specified in article 4 of the Convention, punishable by law. In this respect, it notes with satisfaction the indication that the Government would welcome technical assistance towards this end. The Committee recommends that the Government avail itself of the technical cooperation services of the Centre for Human Rights of the United Nations.

18. The Committee recommends that information regarding the ethnic composition of the population, the geographic areas where minority communities are concentrated, the level of their standard of living and other educational and social indices be provided in the next report, which should be an updating

report focused on those questions and subjects of concern raised by the Committee during the examination of the present report. It also requests that the next report include data on the indigenous communities that are affected by drug trafficking and how the Government's policies and programmes are affecting those groups. It will be appreciated if that information includes the amount of land withdrawn from coca production, the amount of land continuing to produce coca, the number of persons affected and the ethnic origin of those persons, as well as the effects of the Government's programmes on their living standards. If it is considered that assistance in this area would be helpful, the Committee recommends that the Government request technical assistance from the Centre for Human Rights with respect to the collection and analysis of data.

19. The Committee recommends that the next periodic report contain detailed information concerning the draft bill on land reform. It requests that the report explain how demands for sustainable development, for the promotion of agriculture and for protection of the rights of the indigenous and peasant communities will be reconciled in the draft bill.

20. The Committee urges that immediate attention be paid to the development of rural areas where many indigenous communities are situated. It encourages the Government to consider expansion of the economic and social infrastructure to enable those communities to be provided with access to clean water, energy, medical care, education, and other essential services and, in this regard, it calls special attention to the situation of the Guaraní people. The Committee encourages the Government to seek international assistance towards this end.

21. The Committee strongly recommends that the next periodic report include information regarding any measures taken to remedy the problems outlined in the report concerning judicial sentencing. In particular, the Committee requests information concerning the number of complaints of racial discrimination which have been made and examples of sentencing to be included in the next periodic report to gain a better understanding of the way in which the judicial system implements the obligations of the State under the Convention.

22. The Committee recommends that the next periodic report include information on how the Law on University Reform and other related measures will affect minority students and communities.

23. The Committee recommends that the State party consider how it may implement the working provisions of article 7 and incorporate in the school curricula and the training of persons in the public service appropriate instruction to effectively combat prejudice and promote tolerance.

24. The Committee recommends that the State party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the 14th meeting of States parties.

25. The Committee recommends that the next periodic report of the State party due on 22 October 1997, be updating in character and that it address all the points raised in the present concluding observations.

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PR

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the Elimination of Racial Discrimination

Brazil

1. The Committee considered the tenth, eleventh, twelfth and thirteenth periodic reports of Brazil submitted in a single document (CERD/C/263/Add.10), at its 1157th, 1158th and 1159th meetings (CERD/C/SR.1157-1159), on 5 August and 6 August 1996. At its 1177th meeting, on 19 August 1996, it adopted the following concluding observations.

A Introduction

2. The Committee welcomes the resumption of the dialogue with the Government of Brazil after a nine-year break. It expresses its satisfaction to the State party for the frankness of its report and the explanations provided by the delegation. However, it regrets that the report submitted contains little specific information on the implementation of the Convention in practice. In this connection, the Committee takes note of the delegation's statement that the State party is ready to continue the dialogue in the near future and to provide it with fuller information on the measures taken to give effect to the Convention.

3. The Committee notes that the State party has not made the declaration provided for by article 14 of the Convention; some members of the Committee requested that it should consider the possibility of doing so.

## B. Factors and difficulties impeding the implementation of the Convention

4. The Committee recognizes that Brazil is a country with a very sizeable geographical area and population and that, during the past decade, it has undergone far-reaching political, economic and social changes. In spite of numerous structural, political, economic and social reforms, the authorities have not managed to control endemic poverty, thus exacerbating the social inequalities affecting the black, indigenous and mestizo populations in particular, and encouraging the emergence of a culture of violence.

## C. Positive aspects

5. The recent legislative and institutional measures taken by the Government of Brazil to bring national legislation more into line with the Convention and to improve protection of the fundamental rights of the most vulnerable communities are welcomed. In this connection, the Committee takes particular note of the adoption of the new Constitution in 1988 and the recent establishment of a human rights commission, an inter-ministerial working group for the promotion of the black population and a ministry of agrarian reform and the promulgation of a national human rights plan. The creation, on an experimental basis, of a police station to deal specially with cases of racial discrimination should also be highlighted.

6. The determination expressed by the delegation to ratify shortly ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries is a step forward which the Committee hopes Brazil will take as soon as possible.

7. Active participation by members of society at large in drafting the State party's report is a welcome development, as is the determination expressed by the Brazilian authorities to disseminate widely the report and the Committee's concluding observations.

## D. Principal subjects of concern

8. The statistical and qualitative information on the demographic composition of Brazil's population and on the enjoyment of political, economic, social and cultural rights provided in the State party's report clearly show that the indigenous, black and mestizo communities suffer from deep structural inequalities and that the measures taken by the Government effectively to combat those disparities are still insufficient.

9. The Committee notes that the report contains no information on the "indicators" of the particular social difficulties encountered by the most vulnerable populations, especially the indigenous, black and mestizo populations.

10. A number of sources of information concur that discriminatory attitudes towards the indigenous, black and mestizo populations persist within Brazilian society and are apparent at a number of levels in the political, economic and social life of the country. These discriminatory attitudes concern,

inter alia, the right to life and security of person, political participation, access to education and employment, access to basic public services, the right to health, the right to decent housing, land ownership, land use and law enforcement.

11. Special concern is expressed about the fate of the most vulnerable populations, in particular indigenous people, blacks and mestizos.

12. Regarding the implementation of article 2 of the Convention, the Committee notes with concern the slow pace of certain legislative reforms, in particular the reform of the Criminal Code. The Committee notes with concern the maintenance of article 6 of the 1916 Civil Code of Brazil, containing a discriminatory restriction on the exercise of civil rights by the indigenous populations which is contrary to 1988 Constitution of Brazil, although according to the explanations of the representative of Brazil this provision has become obsolete.

13. The fact that illiterate citizens, who are found especially among the indigenous, black or mestizo population, or other vulnerable groups, cannot be elected in political elections is contrary to the spirit of article 5 (c) of the Convention.

14. Particular note is taken of the fact that the indigenous populations encounter serious discrimination in regard to enjoyment of their civil, political, economic, social and cultural rights. Special concern is expressed about the unfair treatment of the indigenous populations during land demarcation and distribution, the violent and unlawful means used to settle numerous land disputes and the violence and intimidation used against them by private militias and even occasionally by members of the military police. Concern is also expressed about their social protection and the discrimination they suffer in the spheres of health, education, culture, employment, access to public office and housing.

15. Regarding the implementation of article 6 of the Convention, the Committee notes with regret that the information provided on cases in which judicial remedies were exercised by the victims of acts of racial discrimination was insufficient and did not allow a proper assessment to be made.

## E. Suggestions and recommendations

16. The Committee hopes that the State party will continue and strengthen its efforts to improve the effectiveness of measures and programmes designed to ensure that all groups of the population fully enjoy their political, economic, social and cultural rights. The Committee also recommends that the State party devote due attention to developing programmes to foster awareness of human rights and of the need for tolerance, in order to prevent social and racial discrimination and prejudice.

17. The Committee requests the Government of Brazil to provide, in its next periodic report, precise information and "indicators" on the social difficulties encountered by the indigenous black and mestizo populations, and in particular on rates of unemployment, imprisonment, alcoholism, drug use,

delinquency and suicide. The Committee also draws the State party's attention to the need to devise "indicators" to assess policies and programmes for protecting and promoting the rights of the vulnerable populations.

18. The Committee recommends that the State party should do everything possible to speed up the current legislative reforms and, more specifically, to amend article 6 of 1916 Civil Code of Brazil, which is contrary to its 1988 Constitution. The State party should also take measures to allow illiterate citizens from the most underprivileged population groups to be elected in political elections.

19. The Committee recommends that the Government of Brazil put more vigorously into practice its determination to defend the fundamental rights of indigenous people, blacks, mestizos and members of other vulnerable groups, who are regularly the victims of serious intimidation and violence, sometimes leading to their death. It hopes that the authorities concerned will systematically prosecute those guilty of such crimes, whether they are members of private militias or State officials, and will take effective preventive measures, especially through training for the members of the military police. In addition, the State party should ensure that the victims of such acts receive compensation and are rehabilitated.

20. The Committee strongly recommends that the State party should adopt fair and equitable solutions for the demarcation, distribution and restitution of land. To that end, where land disputes are concerned, everything possible should be done to prevent discrimination against indigenous people, blacks or mestizos by the big landowners.

21. The Committee encourages the State party to ratify ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

22. The Committee recommends that the next periodic report of Brazil contain detailed information on complaints filed by the victims of acts of racial discrimination and on how they were dealt with by the courts.

23. The Committee recommends that the State party give nationwide publicity to its thirteenth periodic report and the Committee's concluding observations thereon.

24. The Committee recommends that the State party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention which were adopted by the 14th meeting of State parties.

25. The Committee recommends that the State party's next periodic report, which is due on 4 January 1998, contain an update of the previous report and focus on all the points raised in the present concluding observations.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES
UNDER ARTICLE 9 THE CONVENTION

# Concluding observations of the Committee on the Elimination of Racial Discrimination

## Republic of Korea

1. The Committee on the Elimination of Racial Discrimination considered the eighth periodic report of the Republic of Korea (CERD/C/258/Add.2) at its 1159th and 1160th meetings, held on 6 and 7 August 1996 (see CERD/C/SR.1159-1160), and adopted the following concluding observations at its 1176th meeting, held on 19 August 1996.

## A. Introduction

2. The Committee welcomes the eighth periodic report of the Republic of Korea and is pleased by the regularity with which the State party submits its reports. It takes note of the detailed supplementary information provided by the delegation, which includes replies to some of the suggestions and recommendations adopted by the Committee during its consideration of the seventh periodic report of the State party. The Committee also appreciates the open dialogue initiated with the delegation and the delegation's oral replies to the questions raised during the discussion.

## B. Factors and difficulties impeding the implementation of the Convention

3. The Committee notes that the Republic of Korea, of which the population has historically been ethnically homogeneous, has for several years been experiencing a rapid growth of its foreign population. In particular, the Committee notes that many of those foreigners are in an irregular situation, a fact which makes it difficult to implement the provisions of the Convention on their behalf because they have no legal status in the country.

## C. Positive aspects

4. The Committee views with interest the Government's wish to establish an independent national human rights commission. It notes with appreciation that the Republic of Korea is among the States parties which have accepted the amendments to article 8, paragraph 6, of the Convention, adopted at the 14th meeting of States parties.

5. The adoption of administrative guidelines on the protection of foreign industrial trainees in order to ensure them protection on an equal basis with national and legally registered foreign workers is in the spirit of article 5 of the Convention.

6. In that regard, the Committee notes that the Government of the Republic of Korea is considering creating a work permit for illegal foreign workers that would place them under the aegis of the Labour Standards Act, which, inter alia, prohibits discrimination on the basis of nationality and ensures minimum protection against poor working conditions and low wages.

7. The Committee welcomes the setting up of complaint centres in all immigration control centres, where foreign workers can file complaints in cases where their rights have been violated.

8. The Committee notes the existence of many possibilities for seeking remedies with the governmental and legal authorities and for suing individuals, the State or its representatives for compensation in cases of violations of fundamental human rights.

9. The Committee appreciates the Government's implementation of the Committee's recommendation, made during its consideration of the State party's previous report, that human rights awareness sessions should be organized for law enforcement officials as a contribution to the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. The Ministry of Justice's translation into Korean of the texts of the international human rights conventions is also likely to enhance the general public's familiarity with those instruments.

10. The Committee notes with satisfaction that, according to the explanations provided by the delegation of the Republic of Korea, the provisions of the Convention may be invoked by individuals before the courts, which may apply them directly on the same basis as domestic law.

11. The Committee welcomes the statement by the delegation that the State party is planning to accept soon the competence of the Committee under article 14, paragraph 1 of the Convention.

## D. Principal subjects of concern

12. The Committee notes with concern that neither the Constitution nor the law of the Republic of Korea explicitly prohibits discrimination on the basis of race, colour, descent, or national or ethnic origin, despite the provisions of article 2 of the Convention and the Committee's previous recommendations on the matter.

13. The Committee also notes with concern that article 4 of the Convention has not yet been fully implemented, since the law of the Republic of Korea contains no provisions explicitly punishing acts of racial discrimination and prohibiting organizations which promote and encourage racial discrimination.

14. The Committee notes with concern that there is discrimination against people of foreign origin who were born and have settled in the Republic of Korea, particularly Chinese, in relation to people of Korean origin, with regard to certain matters - for example, the impossibility of acquiring citizenship of the Republic of Korea and the difficulty in obtaining employment in some large companies.

15. The Committee also notes that, although the Government recognizes the existence of a problem of discrimination against Amerasian children, no information has been provided on any steps taken by the Government to remedy that situation.

16. The Committee regrets the fact that insufficient information has been provided with regard to article 5 of the Convention. As a result, the Committee has been unable to form an opinion on the actual situation regarding the equal enjoyment by all, without distinction as to racial, national or ethnic origin, of the various rights set forth in article 5 of the Convention.

17. The large number of foreigners who are being employed in ever-increasing numbers by businesses in the Republic of Korea, who live and work clandestinely in the country, usually under difficult and precarious conditions, and who are the victims of discrimination under the provisions of article 5 (a), (b), (d), (e) and (f) of the Convention, is a source of concern for the Committee. The same concern has been expressed with regard to the situation of foreign trainees who are allegedly subjected to various form of discrimination and forced labour.

## E. Suggestions and recommendations

18. The Committee recommends that constitutional and legislative measures should be taken to remedy the omission of race as a ground for discrimination in the law of the Republic of Korea and, in that regard, notes the compulsory nature of the provisions of article 2 of the Convention.

19. The Committee also underlines the compulsory nature of the provisions of article 4 of the Convention and recommends that the State party adopt appropriate legislation to give effect to those provisions, particularly by enacting a law explicitly prohibiting and punishing acts of racial discrimination and organizations which promote and encourage racial discrimination. In that regard, the Committee recommends that the State party should take account of the Committee's General Recommendation XV.

20. The Committee also recommends that measures be taken to ensure that persons of foreign origin who were born and have settled in the Republic of Korea are no longer subject to discrimination based on ethnic origin. The Committee would like the next report to provide further information on the situation of such foreigners, the current situation of the children of mixed marriages, particularly Amerasian children, and any measures taken to improve that situation.

21. The Committee recommends that the next report of the State party should include detailed information on legislative and practical measures taken by the authorities to ensure respect for the provisions of article 5 of the Convention.

22. The Committee also recommends that measures be taken to improve the situation of migrant workers, particularly foreigners with irregular status in the Republic of Korea; in particular, it recommends that, as envisaged by the authorities, a work permit be introduced for such persons, in order to legalize their situation.

23. The Committee requests the State party to include in its next report information on complaints received, and cases tried, concerning matters of racial discrimination.

24. The Committee recommends that the next periodic report of the State party, which was due on 4 January 1996, be a full report dealing with all the points raised during the present discussion.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES
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Concluding observations of the Committee on
the Elimination of Racial Discrimination

India 1/

1. At its 1161st, 1162nd and 1163rd meetings, held on 7 and 8 August 1996 (see CERD/C/SR.1161-1163), the Committee on the Elimination of Racial Discrimination considered the tenth to fourteenth periodic reports of India (CERD/C/299/Add.3) and adopted, at its 1182nd meeting, held on 22 August 1996, the following concluding observations.

## A. Introduction

2. The Committee expresses its appreciation for the opportunity to resume its dialogue with the State party on the basis of its tenth to fourteenth periodic reports. It regrets the brevity of the report, all the more so since 10 years have passed since the previous report was submitted. It also regrets that the report does not provide concrete information on the implementation of the Convention in practice; it furthermore regrets that the report and the delegation claim that the situation of the scheduled castes and scheduled tribes does not fall within the scope of the Convention.

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1/ The comments of the Government of India were submitted to the Committee on the Elimination of Racial Discrimination pursuant to article 9, paragraph 2, of the Convention and are reprinted in annex IX to the annual report of the Committee (A/51/18).

3. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention. Some of the members of the Committee requested that the possibility of making such a declaration be considered.

## B. Factors and difficulties impeding the implementation of the Convention

4. It is noted that India is a large multi-ethnic and multicultural society. It is also noted that the extreme poverty of certain groups in the population, the system of castes and the climate of violence in certain parts of the country are among the factors which impede the full implementation of the Convention by the State party.

## C. Positive aspects

5. The leading role played by India in the struggle against racial discrimination and apartheid at the international level is welcomed by the Committee. The Committee also acknowledges the far-reaching measures adopted by the Government to combat discrimination against members of scheduled castes and scheduled tribes.

6. The demographic data on the composition of the population and on the representation of various communities in the public service at the central and state level of government provided by the delegation during the meetings are welcomed.

7. The broad functions and powers of the recently established National Commission on Human Rights, as defined by the Protection of Human Rights Act (1993), which include the capacity to inquire into complaints of violations of human rights, to intervene in any proceeding involving allegations of violation of human rights pending before a court, to review constitutional and legal safeguards, to study treaties and other international instruments on human rights, to recommend measures for their effective implementation and to spread human rights literacy among the population, are welcomed by the Committee. It is noted with interest that the Commission encourages the states within the federation to create human rights commissions, as well as tribunals dealing specifically with human rights.

8. The Committee takes note of the plurality of newspapers and the mass media, and their awareness of human rights problems. The Committee holds that they play an important role in the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination.

9. Note is also taken of the procedure of public interest litigation adopted by the Supreme Court, which affords the possibility to anyone, and not only to the victims of human rights violations, to seek redress from the court by any means, even by means of a postcard.

10. Articles 15 (i) and 15 (ii) of the Constitution of India, prohibiting all forms of discrimination by the State and its agents, or between individuals, including discrimination based on race and castes, as well as article 153, paragraphs (a) and (b), and article 505 of the Penal Code, which prohibit

actions that promote disharmony, hatred, feelings of enmity and ill-will on grounds of race or religion, are found to be mainly in conformity with article 2, paragraph 1, of the Convention.

11. The Committee welcomes the statement in the State party's report to the effect that no organization which promotes and incites racial discrimination can legally exist in India and that the Constitution and the laws in this regard make it clear that the State party will take all necessary measures within the law to prevent activities and propaganda which promote and incite racial discrimination.

12. The lapse of the Terrorist and Disruptive Activities (Prevention) Act (TADA), which applied in parts of the north-eastern part of the country and in Jammu and Kashmir, under which the right to personal security of some members of ethnic and religious minorities living in those areas was often reported to be violated by security forces, is welcomed.

13. The importance accorded by the authorities to education as a means to spread awareness of human rights and literacy among the population and to struggle against all forms of discrimination, in particular racial discrimination, as well as the activities of the National Commission on Human Rights and the inclusion of human rights in the training of law enforcement officials, are welcomed.

## D. Principal subjects of concern

14. Noting the declaration in paragraph 7 of the report, reiterated in the oral presentation, the Committee states that the term "descent" mentioned in article 1 of the Convention does not solely refer to race. The Committee affirms that the situation of the scheduled castes and scheduled tribes falls within the scope of the Convention. It emphasizes its great concern that within the discussion of the report, there was no inclination on the side of the State party to reconsider its position.

15. The Committee is seriously concerned that the Kashmiris, as well as other groups, are frequently treated, on account of their ethnic or national origin, in ways contrary to the basic provisions of the Convention.

16. Clause 19 of the Protection of Human Rights Act prevents the National Commission on Human Rights from directly investigating allegations of abuse involving the armed forces. This is a too broad restriction on its powers and contributes to a climate of impunity for members of the armed forces. Moreover, it is regretted that the Commission is debarred from investigating cases of human rights violation that occurred more than a year before the making of the complaint.

17. The absence of information on the functions, powers and activities of the National Commission on Scheduled Castes and Scheduled Tribes and of the National Commission on Minorities makes it impossible to assess whether these Commissions have a positive impact upon the enjoyment of human rights and fundamental freedoms by members of the groups in question.

18. It is regretted that no information has been provided to the Committee on the effective implementation of the penal provisions referred to in paragraph 10 above. In this regard, concern is expressed at numerous reports of acts of discrimination based on race, colour, descent or national or ethnic origin, although it was stated that no such case has yet been brought before the courts; this leads the Committee to wonder whether individuals are sufficiently informed about their rights.

19. The lack of concrete information on the legal provisions in force to prohibit organizations which incite and promote racial discrimination and hatred, and to punish members of such organizations in accordance with article 4 of the Convention, as well as on their application in practice, including eventual court decisions, is regretted. This is most serious in view of widespread violence against certain minorities actively sponsored by extremist organizations that have not been declared illegal.

20. The lack of information on the text of the Directive Principles of State Policy of the Constitution relating to the promotion of social, economic and cultural rights, and on measures to give them effect, makes any evaluation of the implementation of article 5 of the Convention more difficult.

21. Regrets are expressed that the National Security Act and, in some areas of India, the Public Safety Act, remain in force.

22. It is noted with concern that the denial of the equal enjoyment of political rights, as provided for in article 5 (c) of the Convention, has led to an increase of violence, in particular in Jammu and Kashmir.

23. It is noted that although constitutional provisions and legal texts exist to abolish untouchability and to protect the members of the scheduled castes and tribes, and although social and educational policies have been adopted to improve the situation of members of scheduled castes and tribes and to protect them from abuses, widespread discrimination against them and the relative impunity of those who abuse them point to the limited effect of these measures. The Committee is particularly concerned at reports that people belonging to the scheduled castes and tribes are often prevented from using public wells or from entering cafés or restaurants and that their children are sometimes separated from other children in schools, in violation of article 5 (f) of the Convention.

24. The Committee regrets that certain communities do not enjoy representation in proportion to their size.

25. Although it is noted that the Supreme Court and the high courts have the jurisdiction to award compensation to victims of human rights violations, including in the field of racial discrimination, concern is expressed that there exists no specific statute providing for the right of individuals to seek from the courts just and adequate reparation or satisfaction for any damage suffered as a result of acts of racial discrimination, as required by article 6 of the Convention.

E. Suggestions and recommendations

26. The Committee recommends that the State party continue and strengthen its efforts to improve the effectiveness of measures aimed at guaranteeing to all groups of the population, and especially to the members of the scheduled castes and scheduled tribes, the full enjoyment of their civil, cultural, economic, political and social rights, as mentioned in article 5 of the Convention. In this regard, the Committee recommends that the next report to be submitted by the State party contain full and detailed information on the legislative aspects and the concrete implementation of the Directive Principles of the State Policy of the Constitution.

27. The Committee recommends that special measures be taken by the authorities to prevent acts of discrimination towards persons belonging to the scheduled castes and scheduled tribes, and, in cases where such acts have been committed, to conduct thorough investigations, to punish those found responsible and to provide just and adequate reparation to the victims. In this regard, the Committee particularly stresses the importance of the equal enjoyment by members of these groups of the rights to access to health care, education, work and public places and services, including wells, cafés or restaurants.

28. The Committee recommends that clause 19 of the Protection of Human Rights Act be repealed to allow inquiries of alleged abuses committed by members of the armed and security forces to be conducted by the National Commission on Human Rights and that the Commission be enabled to look into complaints of acts of racial discrimination that occurred more than a year before the filing of the complaint.

29. The Committee recommends that the next periodic report of the State party include information on the powers and functions, as well as on their effective implementation, of the National Commission on Scheduled Castes and Scheduled Tribes and of the National Commission on Minorities.

30. The Committee also recommends that the Government provide in its next periodic report information, including the number of complaints lodged and sentences passed, about the implementation in practice of the legal provisions prohibiting acts of racial discrimination and organizations which promote and incite racial discrimination, in accordance with articles 2 and 4 of the Convention.

31. The Committee recommends a continuing campaign to educate the Indian population on human rights, in line with the Constitution of India and with universal human rights instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination. This should be aimed at eliminating the institutionalized thinking of the high-caste and low-caste mentality.

32. The Committee reaffirms that the provisions of article 6 of the Convention are mandatory and that the Government of India should adopt legal provisions making it easier for individuals to seek from the courts just and

adequate reparation or satisfaction for any damage suffered as a result of acts of racial discrimination, including acts of discrimination based on belonging to a caste or a tribe.

33. The Committee suggests that the State party ensure wide publicity, as far as possible in the official and state languages, to its tenth to fourteenth reports and to the present concluding observations.

34. The Committee recommends that the State party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the fourteenth meeting of States parties.

35. The Committee recommends that the State party's next periodic report, due on 4 January 1998, be a comprehensive report and that it address all the points raised in these concluding observations.

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UNDER ARTICLE 9 OF THE CONVENTION

UN COLLECTION

Concluding observations of the Committee on the Elimination of Racial Discrimination

Malta

1. The Committee considered the eleventh and twelfth periodic reports of Malta (CERD/C/262/Add.4) at its 1161st and 1162nd meetings on 7 and 8 August 1996 (see CERD/C/SR.1161-1162) and at its 1176th meeting, on 19 August 1996, adopted the following concluding observations.

## A. Introduction

2. The Committee welcomes the report presented by the Government of Malta, which contains information about changes and developments that have occurred since the consideration of the previous periodic report. The Committee also welcomes the detailed answers to questions raised and concerns expressed during the consideration of the report. It expresses its appreciation for the dialogue with the delegation and for the answers given orally to the questions raised by members.

3. It is noted that the State party has not made the declaration provided for in article 14 of the Convention. Some members of the Committee requested that the possibility of making such a declaration be considered.

## B. Positive aspects

4. The fact that the State party states in its report that it has been actively studying the possibility of enacting new ad hoc legislation to cover all forms of discrimination is an encouraging step towards the future implementation of article 4 of the Convention.

5. The willingness affirmed by the State party during the oral dialogue to consider making a declaration under article 14 of the Convention is welcomed.

6. The recent establishment of the office of the Ombudsman, whose mandate includes the consideration of complaints submitted by individuals relating to all forms of racial discrimination, is also welcomed.

7. The recent organization by the State party of various media campaigns against the negative effects of racial discrimination because of an increase in tourism and in the number of foreign students and refugees is a positive action.

## C. Principal subjects of concern

8. The Committee is concerned that the Government of Malta maintains in its report its official position that it does not need to enact new ad hoc legislation to cover all forms of racial discrimination.

9. The Committee acknowledges that although certain provisions of existing legislation could be utilized to punish racial discrimination, nevertheless the Government of Malta has not implemented article 4 of the Convention. Nor has the declaration relating to this article made upon ratification been withdrawn. The Committee reaffirms its opinion that no social system can fully guarantee the absence of racial discrimination.

10. It is regretted that not enough information has been provided by the State party on certain economic and social rights under article 5 of the Convention or on recent measures taken to implement the provisions of article 7 of the Convention.

## D. Suggestions and recommendations

11. The Committee recommends that the State party comply fully with its obligations under article 4 of the Convention and take all necessary steps to amend the Criminal Code in that respect. Due account should be taken of the Committee's General Recommendation XV.

12. In connection with article 7 of the Convention, the Committee would welcome information on the effectiveness of teaching and public campaigns intended to prevent the spread of racial interpretations of social and political problems.

13. The Committee suggests that the Government continue its action taken to publicize the provisions of the Convention. In addition, the State party should ensure the wide dissemination of its report and of the present concluding observations of the Committee, in both the English and Maltese languages.

14. The Committee also recommends that the next periodic report contain complete information on any complaints of racial or ethnic discrimination and judicial action subsequently taken.

15. The Committee recommends that the State party comply fully with its obligations under the Convention and enact specific legislation to cover all forms of racial discrimination.

16. The Committee recommends that the State party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the 14th meeting of States parties.

17. The Committee recommends that the State party's next periodic report, which was due on 8 January 1996, be updating in character and that it address all the points raised in these concluding observations.

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Concluding observations of the Committee on the Elimination of Racial Discrimination

People's Republic of China

1. The Committee examined the fifth, sixth and seventh periodic reports of the People's Republic of China, which were submitted in a single document (CERD/C/275/Add.2), at its 1163rd and 1164th meetings held on 8 and 9 August 1996 (see CERD/C/SR.1163-1164). In the light of the examination of the report and the observations made by the members of the Committee, the Committee, at its 1179th meeting, on 20 August 1996, adopted the following concluding observations.

## A. Introduction

2. The Committee welcomes the submission of the combined periodic report of the State party and the resumption of dialogue. The Committee regrets that the report contained insufficient data on health, education, welfare and other social and economic conditions of life of the different minority groups, which made it difficult to assess properly the implementation of the Convention in the State party. However, it expresses its satisfaction with the additional oral and written information provided by the delegation representing the State party and with the constructive nature of the dialogue between the delegation and the Committee which, due to a restrictive timetable, could unfortunately not be prolonged.

3. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention; some members requested the State party to consider the possibility of making such a declaration.

B. Factors and difficulties affecting the implementation of the Convention

4. Note is taken of the large number of minorities which, according to the State party, include 55 nationalities. Since a significant percentage of these nationalities do not reside in the autonomous minority areas, it is difficult to assess their living conditions with precision. Note is also taken of the difficulties in standardizing essential services throughout the vast territory of China.

C. Positive aspects

5. The strong economic growth experienced in recent years by the State party is a positive factor and should provide greater possibilities for public investment in areas that require urgent attention. In particular, indications by the State party that minority areas are granted public investment on a priority basis are viewed with great satisfaction.

6. Satisfaction is expressed that the living standards of minority peoples have improved in recent years, particularly with respect to preferential treatment with regard to marriages, family planning, university admissions, employment, etc.

7. Satisfaction is expressed at the efforts to preserve the linguistic heritage of the minority nationalities. Such efforts include the provision of textbooks, the development of school curricula and the publication of newspapers and literary works in the minority languages.

8. The State's policy of largely exempting members of minority nationalities from the birth control regulations which generally apply in China is welcomed.

9. The promulgation of laws and regulations at the various administrative levels covering many aspects of the lives of members of minorities is an indication that a policy of promoting the status of minorities is being pursued.

10. With respect to the autonomous areas, it is noted with appreciation that the law on regional autonomy for minority nationalities guaranties that a proportion of local government officials is drawn from local nationalities.

D. Principal subjects of concern

11. Concern is expressed at the lack of protective legal provisions for minority groups that are scattered throughout China. The absence of information regarding these minorities' enjoyment of rights enumerated in the Convention is noted with regret.

12. Further information regarding the ban on domestic organizations that propagate racial discrimination or the superiority of any people would be necessary to make a proper assessment of the implementation of article 4.

13. Concern is expressed with respect to reports concerning incentives granted to members of the Han nationality to settle in autonomous areas, as this may result in substantial changes in the demographic composition and in the character of the local society of those areas.

14. Taking into consideration that a distinctive religion is essential to the identity of several minority nationalities, concern is expressed with regard to the actual enjoyment of the right to freedom of religion in the State, particularly in the Muslim parts of Xinjiang and in Tibet, including the preservation of places of worship and the exercise of religious rights by members of all ethnic groups.

15. Concern is expressed at reported cases of violation in the autonomous regions of Xinjiang and Tibet of the right to security of person and protection against violence or bodily harm, as contained in article 5 (b) of the Convention. With regard to prison facilities, it is regretted that limited information is contained in the report on the percentage of persons imprisoned who are of minority origin relative to the total prison population in the State as a whole, the types of violations they have been charged with and the prison conditions under which they serve their sentences.

16. Concern is expressed at the underrepresentation in business in some areas of persons of minority groups, which may be indicative of structural obstacles to their enjoyment of increases in economic prosperity. Concern is also expressed with regard to allegations that members of minority nationalities may not enjoy the same working conditions as persons of Han origin.

17. With respect to article 5 (e) (v) of the Convention, concern is expressed that at the secondary school and university levels children from minority nationalities are underrepresented. Moreover, concern is expressed that the instruction provided in the curricula on the history and culture of minority nationalities is not adequate as compared to the education provided concerning the history and culture of persons of the Han nationality.

18. Concern is expressed at the disparities in access to economic, social and cultural benefits by different ethnic groups. While the difficulties in providing such benefits to regions far removed from the capital and developed economic regions are appreciated, the effects of the differing levels of economic development of different regions and their impact on different communities are of concern, as they may generate racial discrimination towards disadvantaged groups. In addition, efforts with respect to economic development and national modernization should not deprive members of such ethnic groups of their right to their own culture, in particular their traditional ways of life.

19. With respect to article 7, concern is expressed about whether the efforts in teaching and education to combat prejudices which lead to racial discrimination are sufficient.

20. Concern is expressed about the content and implementation of the law of 1995 on mother and child health care and its impact on minority nationalities.

## E. Suggestions and recommendations

21. The Committee recommends that the Government make all acts of racial discrimination, as specified in article 4 of the Convention, punishable by law. In this respect, it notes with satisfaction indications that the Government would welcome technical assistance from the technical cooperation services of the Centre for Human Rights of the United Nations.

22. The Committee recommends that with respect to article 4 more detailed information regarding the ban on domestic organizations that propagate racial discrimination or the superiority of any people be submitted in the State party's next report.

23. The Committee recommends that comprehensive information regarding the composition of the population, the geographic areas where minority nationalities are concentrated, their standard of living and other educational and social indices be included in the next report. Such information should be provided not only with respect to minority nationalities living in the autonomous areas, but also as far as possible with respect to those dispersed in various regions. With regard to the latter groups, the Committee would appreciate information regarding the legal protection available to dispersed minorities relative to the rights provided for in the Convention.

24. The Committee recommends that consideration be given to the inclusion of more members of minority nationalities in positions of leadership, not only in the Government but also in the Party and other institutions at both the national and local levels.

25. The Committee recommends that the elaboration and adoption of autonomy regulations for the five autonomous regions, which were envisioned in the 1984 Law on Autonomous Regions, be expedited.

26. The Committee recommends that any policies or practices that may result in a substantial alteration of the demographic composition of autonomous areas be reviewed.

27. The Committee recommends that information and clarification be provided in the next periodic report on allegations of destruction by the State of mosques, Buddhist and Lama temples and other places of worship of the minority nationalities. It encourages the Government to avoid any restriction on the exercise of religious rights of the members of minority nationalities.

28. The Committee recommends that in relation to respect for article 5 (b) of the Convention information be provided in the next report concerning the number and percentage of persons detained who are of minority origin relative to the total prison population of the State party and the types of violations with which they have been charged.

29. The Committee recommends that further necessary legal, administrative or other appropriate measures be taken to ensure that there is no discrimination against members of minority nationalities, in either the public service or private employment, with respect to the right to just and favourable conditions of work and the right to just and favourable remuneration.

30. With respect to article 5 (e) (v) of the Convention concerning the right to education, the Committee recommends that the State party ensure access by members of minority nationalities to education at all levels and that, in autonomous areas, instruction on the history and culture of the relevant minority nationalities be included in the school curricula.

31. The Committee recommends that special attention be paid to any adverse effect that economic development and national modernization may have on the enjoyment of the right to culture, particularly of minority nationalities.

32. With respect to article 6 of the Convention, the Committee recommends that the State party provide in its next periodic report information and statistics on complaints filed and judgements passed on acts of racial discrimination.

33. The Committee recommends that the State party consider how it may implement the provisions of article 7 and incorporate in the school curricula and the training of persons working in the public service, appropriate instruction effectively to combat prejudice and promote tolerance.

34. The Committee recommends that the text of the Convention, the State report and the present concluding observations of the Committee be widely disseminated and made available in national languages, particularly those spoken in autonomous areas.

35. The Committee recommends that the State party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the 14th meeting of States parties.

36. The Committee recommends that the State party's next periodic report, due on 28 January 1997, be updating in character and that it address all points raised in these concluding observations.

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Concluding observations of the Committee on the
Elimination of Racial Discrimination

Namibia

1. The Committee considered the fourth, fifth, sixth and seventh periodic reports of Namibia, submitted in one document (CERD/C/275/Add.1), at its 1169th and 1170th meetings (CERD/C/SR.1169-1170), held on 13 and 14 August 1996. At its 1180th meeting, on 21 August 1996, the Committee adopted the following concluding observations:

## A. Introduction

2. The Committee particularly welcomes the opportunity to engage in a frank and fruitful dialogue with the Government of Namibia and expresses its satisfaction at the presence of an official of the Ministry of Justice. Although several reports were submitted in the past on behalf of Namibia by the Council for Namibia, the consideration of the present report - which may well be considered as an initial report - constitutes the first opportunity for the Committee to assess the implementation of the Convention in Namibia since its independence.

3. The Committee commends the State party for the frankness of the report and notes with appreciation its general compliance with the guidelines for the preparation of State party reports. Despite its brevity, the report contains useful information on legal and administrative measures taken to give effect to the Convention, as well as on some difficulties faced in the implementation process. Those difficulties were, however, described in broad terms without

details of the concrete steps envisaged to overcome them. Furthermore, the report was lacking economic, social and demographic indicators that would have assisted the Committee in the evaluation of the situation.

4. The Committee expresses its satisfaction with the additional information provided by the representative of the State party in response to questions asked and observations made by Committee members in the course of the discussion. In that respect, the statement by the State party's representative that the core document containing information referred to in the guidelines concerning the initial part of reports of States parties would be submitted in the near future was particularly welcomed.

5. Some members of the Committee recommend that the State party envisage the possibility of making the declaration provided for in article 14 of the Convention.

## B. Factors and difficulties impeding the implementation of the Convention

6. It is recognized that much remains to be done to overcome vestiges of a long period of subjection to colonialism and apartheid. The State party's efforts towards full enforcement of the principles and provisions enshrined in the Convention have been seriously hampered by continuing resort to a number of out-of-date - although still in force - discriminatory laws of the former Government. It is also noted that some discriminatory social attitudes still prevalent and generally tolerated in certain parts of the population are not conducive to the promotion of the implementation of the Convention.

## C. Positive aspects

7. It is noted with particular satisfaction that, despite severe economic and social difficulties, important steps have been taken by the Government since independence to put an end to racial discrimination in all its forms, notably through a remarkable policy of national reconciliation.

8. It is noted with appreciation that the Constitution of Namibia includes a bill of rights which can be invoked before the Courts. Furthermore, the Racial Discrimination Prohibition Amendment Act was adopted in December 1991 and subsequent legislative measures were passed to reinforce it, such as the Land Redistribution Act and the Agricultural Reform Act. Through these constitutional and legislative provisions, certain acts of discrimination and practices of apartheid have been made criminally punishable.

9. It is also appreciated that serious efforts are being undertaken by the Master of the High Court, the Law Reform and Development Commission and the Ministry of Justice to amend or repeal out-of-date or discriminatory legal provisions. Note is taken of the establishment under the Constitution of the office of the Ombudsman with a view to the promotion and protection of human rights.

10. The policy of affirmative action in areas such as education, training and employment is particularly welcomed.

## D. Principal subjects of concern

11. Concern is expressed at the subsistence of out-of-date and discriminatory laws and the persistence of practices inherited from the apartheid regime.

12. Concern is expressed at the fact that, despite affirmative measures taken to eliminate social and economic disparities, black people and mixed race people (coloureds) who comprise 95 per cent of the population, still face serious discrimination in many areas, such as access to property, education, employment, health care or housing.

13. Concern is expressed over the persistence of a dual legal system regulating important aspects of personal status, such as marriage and succession. In that regard, it is noted with concern that there remain serious discrepancies in the system applicable to white, coloured and black people under the Administration of Estate Act.

14. Concern is expressed at the extent of persistent discriminatory attitudes still prevalent in certain parts of the population and the private sector, as well as at the insufficient effectiveness of measures taken to overcome those difficulties. It is further noted with concern that there seem to exist instances of discrimination in the public sector on the grounds of ethnic identity.

15. Concern is expressed at the lack of information in the report relating to the implementation in law and practice of article 5 of the Convention, as well as on the situation of vulnerable groups, particularly the San/Bushmen.

16. Concern is expressed about apparent delays in the process of desegregation in the field of education, as well as the persistence of serious difficulties faced by black children in their access to public and private education, particularly insofar as secondary and higher education are concerned.

## E. Suggestions and recommendations

17. The Committee invites the Government to include in its next periodic report information on the points raised in the present concluding observations as well as on remaining questions posed and observations made by Committee members in the course of the discussion.

18. The Committee recommends that urgent measures be taken to eliminate all remaining discriminatory laws and practices. It encourages the State party to strengthen measures taken to foster a culture that effectively protects human rights by disseminating as widely as possible information on the international human rights instruments to which it is party and on the outcome of the consideration of the present report, among the authorities responsible for the enforcement of the Convention's provisions, as well as among the general public.

19. The Committee recommends that additional steps be taken to combat racial discrimination in the fields of property, land distribution, education, housing, employment, health care and equitable distribution of resources.

Affirmative measures should thus be adopted to overcome vestiges of the past that still hamper the possibilities for black people, including vulnerable groups among them, to have access to secondary and higher education and to enjoy just and favourable conditions of work in the private sector. Similarly, additional measures should be taken in the field of land redistribution.

20. The Committee encourages efforts currently under way by the Master of the High Court and the Law Reform and Development Commission to revise the dual system governing marriage and inheritance. More generally, a systematic study of the domestic law should be undertaken to ensure its full compliance with the provisions of the Convention.

21. The Committee recommends that the State party provide, in its next periodic report, information on the number of complaints filed and judgements passed on acts of racism or racial discrimination.

22. The Committee suggests that publicity be given to the State party's seventh periodic report, as well as to the present concluding observations.

23. The Committee recommends that the State party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the fourteenth meeting of States parties.

24. The Committee recommends that the State party's next periodic report be an updating report and that it address all the points raised in these concluding observations.

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Concluding observations of the Committee on
the Elimination of Racial Discrimination

Venezuela

1. The Committee considered the tenth, eleventh, twelfth and thirteenth periodic reports of Venezuela (CERD/C/263/Add.8/Rev.1) at its 1169th, 1170th and 1172nd meetings (see CERD/C/SR.1169, 1170 and 1172) held on 13, 14 and 15 August 1996 and, at its 1181st meeting, held on 21 August 1996, adopted the following concluding observations.

## A. Introduction

2. The Committee commends the State party on its willingness and readiness to maintain a dialogue with the Committee through submission of its report and expresses its appreciation to the State party's delegation for the wealth of additional information that it provided to the Committee orally. It also notes with satisfaction the submission of the core document of Venezuela (HRI/CORE/1/Add.3). The Committee regrets, however, that the submission of the tenth, eleventh, twelfth and thirteenth periodic reports was not timely and that the report under consideration combines the tenth to thirteenth reports and covers almost a 10-year period.

3. It is noted that the State party has not made the declaration provided for in article 14 of the Convention; some members of the Committee requested that the possibility of making such a declaration be considered.

## B. Factors and difficulties impeding the application of the Convention

4. It is noted that Venezuela is undergoing an economic recession after a period of strong economic development in the 1980s, and that this may have a negative impact on the effective implementation of the Convention, especially with regard to the indigenous population and immigrants from neighbouring countries of the Andean region for which Venezuela, with its much more prosperous economy, has represented a pole of attraction during the past three decades.

## C. Positive aspects

5. The notable efforts made by the State party to establish a comprehensive legal framework that provides for pluralism and tolerance in community life, based on the principles embodied in the Constitution, and provisions contained in the Convention in particular, are noted with satisfaction.

6. At the institutional level, the establishment of various organs, especially an agency for national indigenous policy, which has the title of the Office of Indigenous Affairs of the Ministry of Education, is welcomed.

7. The plan for intercultural bilingual education, contained in presidential Decree No. 283, which aims to promote active participation by the indigenous communities in the various fields of activities within Venezuelan society and to encourage full and comprehensive knowledge of the culture of existing ethnic groups among the rest of Venezuelan society, is noted with interest.

8. Satisfaction is expressed concerning the intention of the State party to ratify International Labour Organization Convention No. 169 on the rights of indigenous peoples, which is now being considered by the national Parliament.

## D. Principal subjects of concern

9. The non-compliance by the State party with its obligations under article 4 of the Convention is a matter of serious concern, as is the fact that the State party has not provided sufficient information on the implementation of the provisions contained in that article, which call for the adoption of specific legislation.

10. Doubts were expressed whether victims of racial discrimination have effective remedies at their disposal for seeking just and adequate reparation from the competent tribunals. It was noted, in particular, that Venezuela's legal system does not include any provisions for compensation of victims of racial discrimination, most of whom belong to various indigenous groups.

11. It was regretted that the report contains insufficient information on the practice with respect to the implementation of provisions of article 5 of the Convention dealing with economic, social and cultural rights, especially with respect to the enjoyment of those rights by the indigenous peoples.

12. Concern was expressed about the insufficient measures to ensure bilingual education of indigenous peoples and to prevent the destruction of their cultural heritage.

13. Concern is expressed that in practice there are separate prison facilities for persons of the indigenous population.

## E. Suggestions and recommendations

14. The Committee strongly recommends that the necessary measures be taken to bring domestic legislation into full compliance with the provisions of article 4 of the Convention.

15. It further recommends that particular attention be given to the effective implementation of article 5 (e) and that relevant information be provided in the next periodic report on the measures taken in this regard, particularly as far as the indigenous population and migrant workers are concerned.

16. Further efforts should be made to strengthen the system of bilingual education in order to cover the whole of the indigenous population, 40 per cent of which remains illiterate, and to prevent the destruction of the indigenous cultural heritage.

17. The Committee recommends that appropriate measures be taken to provide health care services for indigenous communities, particularly those located in remote regions of the country.

18. The Committee recommends that the State party provide additional information on the reasons for maintaining the system of separate prison facilities for members of the indigenous population and welcomes the fact that the State party has indicated that increased public expenditure on prisons, to alleviate overcrowding and resulting problems, has been given priority.

19. The Committee also recommends that the State party, in its fourteenth periodic report, provide more detailed information on the system of human rights organs functioning in the country on their respective mandates and on how those organs interact and coordinate their activities. Information on the extent to which the Government cooperates with non-governmental organizations in achieving the goals set out in the Convention would be most welcome.

20. The Committee would appreciate receiving information from the State party on the implementation of the Agrarian Reform Law and how it has promoted distribution of land among indigenous populations.

21. Information on racially-motivated violence against indigenous people following conflicts over land and extrajudicial execution of members of indigenous populations would be highly welcome.

22. The Committee also recommends that the State party include in its next periodic report information on any complaints of racial or ethnic discrimination, in all its forms, and on judicial action subsequently taken.

23. The Committee suggests that the State party ensure the wide dissemination of the text of the Convention, as well as of the report, the summary records and the present concluding observations in Spanish and in indigenous languages.

24. The Committee recommends that the State party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the 14th meeting of States parties.

25. The Committee draws the State party's attention to the reporting periodicity as determined by the Committee. It strongly recommends that the Government of Venezuela comply fully with its obligations under article 9 of the Convention and that the fourteenth report, which was due on 5 January 1996, be an updating report.

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## Concluding observations of the Committee on the Elimination of Racial Discrimination

## Zaire

1. At its 1171st and 1173rd meetings, held on 14 and 15 August 1996 (see CERD/C/SR.1171 and 1173), the Committee on the Elimination of Racial Discrimination considered the third to ninth, as well as the tenth, periodic reports of Zaire (CERD/C/237/Add.2 and CERD/C/278/Add.1) and adopted, at its 1181st meeting, held on 21 August 1996, the following concluding observations.

### A. Introduction

2. The Committee welcomes the opportunity to resume the dialogue with Zaire on the basis of its third to ninth and tenth periodic reports, after an interruption of 16 years. However, the Committee regrets that the reports contain no concrete information as regards the practical implementation of the provisions of the Convention, as requested in the general guidelines regarding the form and content of reports to be submitted by the States parties under article 9, paragraph 1, of the Convention.

3. The Committee also welcomes the presence of a representative of the State party, but would have appreciated experts from the capital being present in addition. The commitment that the questions which remained unanswered during the discussion would be the object of written answers from the capital in the near future is welcomed.

4. It is noted that the State party has not made the declaration provided for in article 14 of the Convention. Some members requested the State party to consider the possibility of making such a declaration.

## B. Factors and difficulties impeding the implementation of the Convention

5. It is noted that Zaire is experiencing a severe economic crisis, which has led to the general impoverishment of the country and the deterioration of social and economic conditions. Moreover, the ethnic tensions in the Great Lakes region and the very high number of refugees from neighbouring countries who have come to Zaire during the past two years have to be taken into account in assessing the implementation of the Convention by the State party.

## C. Positive aspects

6. The transition towards democracy, inaugurated by a decision of the Head of State on 24 April 1990, and the abolition of the one-party system are welcome developments. Note has been taken by the Committee of the timetable set by the authorities after the postponement of the general elections of 9 July 1995, in accordance with which a referendum on the new Constitution would be held in March 1997 and general elections would be held in May 1997.

7. The adoption on 9 April 1994, by a national conference composed of the main organized political forces in the country, of the Transitional Constitutional Act ("Acte constitutional de la transition"), in which a number of fundamental rights are enshrined, as well as the establishment by decree of the National Commission for the Promotion of Human Rights on 8 May 1995, are noted with satisfaction, although more information on the powers and functions of the Commission is needed.

8. The adoption on 28 November 1995, by the Heads of States of the Great Lakes region, of the Cairo Declaration on the Great Lakes region, which condemns the ideology of exclusion which can result in fear, frustration, hatred and tendencies towards extermination and genocide, as well as their commitment to put an end to the activities of the former members of the Rwandan Armed Forces (FAR), who use refugee camps in Zaire as a "base" to conduct raids against civilians in Rwanda, are welcomed. However, more information on the concrete measures taken to implement these declarations is needed.

9. It is noted with appreciation that legislation exists in Zaire to prohibit the promotion of racial discrimination as required by article 4 of the Convention, such as Ordinance-Laws No. 25/131 of 1960 and 66/342 of 1966 and the Decree of 13 June 1960, although it is noted that the provisions of article 4 are much broader than that of the present Zairian legislation, in particular with regard to article 4 (b) and (c).

10. It is also noted with appreciation that a number of the rights enumerated in article 5 of the Convention, namely the right to equal treatment before tribunals, to security of person, to vote and to stand for elections, to

freedom of movement, thought, conscience and religion, and to peaceful assembly and association, as well as certain economic and social rights, are included in the Constitutional Act. The information provided in the report on the legal provisions relating to those rights is welcomed, although it is noted that there is a lack of information regarding practical instances of their implementation.

11. Taking into account the particularly serious situation in Zaire with regard to inter-ethnic, tribal and regional tensions, the Committee welcomes the signature of an agreement between the Zairian authorities and the Office of the High Commissioner for Human Rights to establish a United Nations human rights office in Kinshasa.

## D. Principal subjects of concern

12. Grave concern is expressed at allegations of large-scale discrimination against the Pygmies (Batwa) and at reports of violent clashes in Kivu involving the Hunde, the Nyanga and the Nande ethnic groups (considered to be natives of Zaire), and the Banyarwanda and the Banaymulengue ethnic groups (considered to be non-natives of Zaire, although they have lived in the country for generations), causing thousands of deaths. Reports of alleged regional "ethnic cleansing" in Shaba against the Kasai ethnic group, which led to their massive displacement to other parts of the country, and of attacks and widespread discrimination against Rwandan and Burundian refugees, are also a subject of great concern for the Committee.

13. The lack of statistical data on the composition of the population and on the representation of the various communities at all economic, social and political levels and in the public service, including the police and the armed forces, is regretted.

14. It is also regretted that, although the constitutional and legislative provisions existing in Zaire to implement article 2 of the Convention were described in the State party's reports, no information was provided to the Committee on the effective implementation of these provisions by the authorities and on possible cases of discrimination brought before the courts.

15. With regard to article 3 of the Convention, the Committee draws the attention of the State party to its General Recommendation XIX of 1995, which states that although the reference to apartheid may have been directed exclusively to South Africa in the past, article 3 prohibits all forms of racial segregation, whether institutional or non-institutional, in all countries.

16. It is noted with serious concern that, in violation of their obligations under article 5 (b) of the Convention and article 9 of the Constitutional Act, the authorities scarcely intervened to ease the tribal and ethnic conflicts in Shaba and Kivu and to protect the population. Concern is particularly expressed at reports alleging that in Shaba some local officials incited the Shaba population to hatred of the Kasai population. It is, however, duly noted that administrative and judicial measures have been taken by the authorities to punish some of the officials found responsible for such acts.

17. The provisions of Law No. 81-002 of 1981, amending Decree-Law No. 71-020 of 1971, to the effect that Zairian nationality would no longer be granted on a collective basis to the Banyarwanda, but only to those who could prove that their ancestors had lived in Zaire since 1885, are in violation of article 5 (d) (iii) of the Convention and are a major source of ethnic conflict.

18. With regard to the full and equal enjoyment of the right to education and training, as provided for in article 5 (e) and (v) of the Convention, reports indicate that only 2 per cent of the national budget was earmarked for education which affects the life and future of disadvantaged racial and ethnic sectors of the population.

19. The lack of comprehensive information on legal measures taken to fulfil the State party's obligations under article 6 of the Convention and on instances where complaints have been lodged by individuals against acts of racial discrimination and reparation was made to victims of acts of racial discrimination, makes it difficult to assess the effective implementation of the provisions of this article in Zaire.

20. With regard to the implementation of article 7 of the Convention, it is regretted that the information provided on the implementation of article 35 of the Constitutional Act and on the courses on human rights given in schools, universities and training programmes for the armed forces and the security forces did not allow a proper evaluation of the situation in practice.

## E. Suggestions and recommendations

21. The Committee recommends the State party to provide in its next report information on the implementation of the various constitutional and legal provisions aimed at eliminating racial discrimination in all its forms, in accordance with article 2 of the Convention, with particular emphasis on the measures taken with regard to the conflicts in Kivu and Shaba and the situation of Rwandan and Burundian refugees.

22. The Committee recommends that the next periodic report include information on the powers, functions and activities of the National Commission for the Promotion of Human Rights, as well as comprehensive statistical data on the demographic composition of the population, as mentioned in paragraph 13 above.

23. The Committee also recommends that information be provided on the legal, administrative and practical measures taken to implement the Cairo Declaration on the Great Lakes region and the commitment undertaken to prevent raids by former members of the FAR into Rwanda from Zaire.

24. Concerning article 4 of the Convention, the Committee reaffirms that the establishment of acts of racial discrimination and incitement to such acts as offences punishable by law in the States parties' legislation is mandatory. In this regard, it draws the attention of the authorities to its General Recommendations VII and XV. The Committee also wishes to be provided with information, including statistics on complaints filed and sentences imposed,

to have an idea of the implementation in practice of the legal provisions prohibiting propaganda of racial discrimination or hatred and organizations which promote and incite racial discrimination.

25. The Committee recommends that further information be provided by the State party with regard to article 5 of the Convention, in particular on measures guaranteeing in practice the effective enjoyment by all persons without discrimination as to race or ethnic origin of the economic, social, cultural, civil and political rights listed in this article, with particular reference to the right to security of person and the right to education and training.

26. The Committee stresses the importance of specific legal provisions providing for effective protection and remedies against acts of racial discrimination and for the right of individuals to seek adequate reparation for any damage suffered as a result of such discrimination, as provided for in article 6 of the Convention.

27. With regard to article 7 of the Convention, the Committee would welcome information on the various programmes described in the report aimed at spreading awareness of human rights among the population, and in particular among law enforcement officials, including members of the armed and security forces. In this regard, the Committee draws the attention of the State party to its General Recommendation XIII.

28. The Committee suggests that the third to ninth and tenth reports of Zaire, as well as the present concluding observations, be widely disseminated among the public, as far as possible in the main languages spoken in the country.

29. The Committee recommends that the State party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the fourteenth meeting of States parties.

30. The Committee recommends that the State party's next periodic report, due on 21 May 1997, be a comprehensive report and that it address all the points raised in these concluding observations.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 9 OF THE CONVENTION

UNITED NATIONS COLLECTION

Concluding observations of the Committee on
the Elimination of Racial Discrimination

Mauritius

1. At its 1173rd and 1174th meetings, held on 15 and 16 August 1996 (see CERD/C/SR.1173-1174, the Committee on the Elimination of Racial Discrimination considered the eighth to twelfth periodic reports on Mauritius (CERD/C/280/Add.2) and adopted, at its 1180th meeting, held on 21 August 1996, the following concluding observations.

A. Introduction

2. The Committee welcomes the eighth to twelfth periodic reports submitted by the Government of Mauritius and expresses its appreciation for the opportunity to resume the dialogue with the State party, after nine years of interruption. The Committee also welcomes the detailed information provided orally by the high-level delegation in answer to the wide range of questions asked by members of the Committee.

3. It noted that the State party has not made the declaration provided for in article 14 of the Convention; some members of the Committee requested the State party to consider the possibility of making such a declaration.

## B. Factors and difficulties impeding the implementation of the Convention

4. It is noted that there are no significant factors or difficulties that prevent the effective implementation of the Convention in Mauritius.

## C. Positive aspects

5. The exemplary spirit of tolerance between the various racial and ethnic communities in Mauritius and the harmonious coexistence of their cultures are commended as they create a sound basis for the full and effective implementation of the Convention.

6. The establishment of a Human Rights Unit within the Ministry of Justice, to monitor the reporting procedures and to provide the various human rights treaty bodies with regular reports, is welcomed.

7. The proposed establishment of an equal opportunity commission, to compel employers in the private sector to afford equal opportunities to people of different origins, is also welcomed.

8. The possibility for judges to refer in their pronouncements to the provisions of the Convention and of any other human rights instrument, in addition to or in the absence of an existing provision of domestic law, is noted with satisfaction.

9. The system of the best losers, which provides for the nomination by the Electoral Commission of up to four members to the National Assembly from among the best losers in an election, with a view to balancing the representation of the various racial and ethnic communities within the National Assembly, is viewed with interest.

10. With regard to article 2 of the Convention, the adoption in July 1991 of section 282 of the Criminal Code, which makes it an offence to publish or distribute any threatening, abusive or insulting writings, to use in public any threatening, abusive or insulting gestures or to broadcast threatening, abusive or insulting matter, with intent to stir up contempt or hatred against any part of the population distinguished by race, caste, place of birth, colour or creed, is noted with appreciation.

11. It is noted with appreciation that the full and equal enjoyment by everyone of the rights enumerated in article 5 of the Convention, and in particular the right to security of person, to marriage, to property, to freedom of thought, conscience and religion, to housing, to health and social security, to education and to participate in cultural activities, is guaranteed and ensured in Mauritius.

12. The amendment of the Citizenship Act in August 1995 is a welcome development, since it also lifted the obligation for foreign women, married to Mauritian citizens, to renounce their nationality if they want to become Mauritian citizens.

13. Concerning article 7 of the Convention, the various activities undertaken with non-governmental organizations, such as the programme "Teaching for Freedom" launched by Amnesty International, or with United Nations agencies, such as the programme introduced by UNICEF together with the Ministry of Education to sensitize children to the ideas of peace, tolerance and interdependence, are welcomed. Moreover, the elaboration in 1991 of the Master Plan on Education for the Year 2000, which provides for the teaching in schools of subjects to foster understanding, tolerance and friendship among nations and racial or ethnic groups, is noted with satisfaction.

## D. Principal subjects of concern

14. The lack of statistical data on the ethnic and racial composition of the population, and on the representation of ethnic and racial communities at all levels of the economic, social and political spheres, is regretted. In this regard, the statement in paragraph 4 of the report that censuses in Mauritius do not indicate the breakdown of the population on an ethnic or racial basis, "in line with the Government policy to promote a Mauritian identity amongst its people" is accepted by the Committee as long as it is not aimed at forced assimilation of people with different origins.

15. Concern is expressed that section 16 of the Constitution, which prohibits laws that are discriminatory by their terms or in their effects, does not apply to laws with respect to marriage, adoption, divorce, succession or other matters regarding private law.

16. With regard to the implementation of article 4 of the Convention, it is noted with concern that the relevant provisions of Mauritian legislation do not prohibit organizations and organized propaganda activities which promote racial discrimination, as provided for in article 4 (b) of the Convention.

17. The lack of practical information on the implementation of the various constitutional and legal texts dealing with the prohibition of racial discrimination, on their possible violation and on measures taken in such cases, with particular reference to articles 4 and 6 of the Convention, is regretted.

## E. Suggestions and recommendations

18. The Committee recommends that in its next periodic report the Government of Mauritius supply statistical data on the composition of the population and on the representation of all of the ethnic and racial communities in the political and economic sectors. The Committee would also welcome social and economic indicators on the Mauritian population.

19. The Committee underlines the importance of the explicit prohibition of discriminatory legislation. In this regard, the Committee recommends that the prohibition of such discriminatory legislation, found in section 16 of the Constitution, be extended to all matters of private law.

20. The Committee emphasizes that the provisions of article 4 of the Convention are mandatory. It thus recommends that legislative measures be taken to implement article 4 (b) of the Convention.

21. The Committee recommends that the next periodic report contain complete information on the implementation of the various provisions on the elimination of racial discrimination in practice and on possible complaints and sentences imposed for acts of racial or ethnic discrimination or in cases of incitement to racial discrimination.

22. The Committee suggests that the State party's report and the Committee's concluding observations be widely publicized in Mauritius.

23. The Committee recommends that the State party ratify at its earliest convenience the amendments to article 8, paragraph 6 of the Convention, adopted by the 14th meeting of States parties.

24. The Committee recommends that the State party's next periodic report be a comprehensive report and that it address all the points raised in the present observations.

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